

STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION

STAFF REPORT FOR REGULAR MEETING OF JULY 6, 2007

Prepared on June 4, 2007

ITEM NUMBER:

SUBJECT: Adoption of Waste Discharge Requirements Order No. R3-2007-0050, Adoption of Cease and Desist Order No. R3-2007-0051 and Rescission of Waste Discharge Requirements Order No. 01-037, Casa de Montgomery, Inc., Santa Cruz County

KEY INFORMATION:

Treatment System Location:	Casa de Montgomery (aka Happy Valley Villa), Santa Cruz County
Discharge Type:	Domestic wastewater
Design Capacity:	None
Treatment:	Septic tank
Disposal:	Impoundments/soil absorption
Reclamation:	None
Existing Orders:	Waste Discharge Requirements (WDRs) Order No. 01-037

SUMMARY

Staff recommends the Board rescind WDRs Order No. 01-037 because, over the past several years, Arlen Haffner (Discharger) paid no annual fee for three years, submitted no required monitoring reports, and constructed no treatment works capable of complying with the Order's waste discharge requirements. The Discharger owns and operates the facility. Although the Discharger paid the fee for FY06-07, he has yet to comply with staff's extensive efforts to obtain any data demonstrating compliance with Order No. 01-137. The Discharger has consistently demonstrated he will not comply with waste discharge requirements. Staff also recommends the Board adopt attached proposed WDRs Order No. R3-2007-0050, which prohibits waste discharge from the site's rooming house and rescinds Order No. 01-037, and that the Board adopt proposed Cease and Desist Order (CDO) No. R3-2007-0051, which prohibits violations of Order No. R3-2007-0050.

BACKGROUND

At 4573 Branciforte Drive in Santa Cruz County, the Discharger owns and operates a rooming house on hilly rural land comprising several acres, approximately five miles northeast of the City of Santa Cruz. The rooming house can accommodate up to 20 residents and discharges domestic wastewater to two septic tanks. A pump station is intended to transfer their effluent about 100 feet uphill to a treatment works, which discharges to four percolation ponds extending in series downhill toward the septic tanks, parallel to the effluent pipeline. The Discharger lives on the site in the former gatehouse, which is served by a separate septic tank and leachfield system.

Branciforte Creek flows southward along the property's eastern boundary while an unnamed tributary flows along the southern boundary before discharging into the Creek. The septic tanks, treatment pond, and percolation ponds all lie within 100 feet of one of these surface waters. See Attachment A to Order No. 01-037

for the locations of the Creek and treatment and disposal works.

On April 14, 1995, the Central Coast Water Board adopted Resolution No. 95-04, which amended the Basin Plan, adding Santa Cruz County's Wastewater Management Plan for the San Lorenzo River watershed. On May 18, 2001, the Board adopted WDRs Order No. 01-037 for Casa de Montgomery, Inc. which, in accordance with the Basin Plan, includes the following:

Effluent Limitation

"3. Total Nitrogen in wastewater shall be reduced by at least 50 percent prior to subsurface disposal. Compliance will be determined from samples taken before and after extended treatment."

System Operation Specifications

"10. The Discharger currently has an onsite septic system. To comply with the San Lorenzo River Wastewater Management Plan, this system shall be modified to reduce nitrogen levels by a minimum of 50 percent. The Discharger will comply with the timeline listed below for system construction:

Task	Completion Date
Completion of extended treatment system design	1/1/2002
Installation of extended treatment system	7/1/2003
Submit a technical report detailing optimal system performance	1/1/2004

The Discharger did not comply with Specification No. 10, above, and therefore could not, in staff's professional judgment, comply with Limitation No. 3. The basis for this conclusion is described below.

Board staff inspection found the "treatment" system to consist of various diameters of

partly buried plastic piping with two plastic jugs into the piping. To nitrify (convert the ammonia in the septic tank effluent to nitrate) and subsequently denitrify (convert nitrate to nitrogen gas), a treatment system must provide the specific environmental conditions necessary to sustain the bacteria that perform the conversions. Staff concluded the piping-jug system cannot provide the necessary conditions. (To nitrify, a treatment system must provide oxygen and a carbon source, typically provided by the septic tank effluent. To denitrify, the system must provide an anoxic zone and carbon. To provide these conditions, effective systems typically consist of discrete reactors or zones. Importantly, effective systems typically recycle the flow back through the system several times. The piping-jug system provides none of these conditions.) Although requested to do so by both Board staff and Santa Cruz County staff, the Discharger never submitted a design for the system for review and approval. Although repeatedly requested to do so by Board staff, the Discharger did not submit the effluent monitoring data necessary to demonstrate the system's ability to nitrify or denitrify.

As described below, noncompliance with Specification No. 10 led to the Executive Officer (EO) preparing a series of notices of violation and enforcement orders. The Discharger did not adequately comply with any of these requirements, as attested to by the items included in the following compliance history.

COMPLIANCE HISTORY

The following history of noncompliance comprises three sections: WDR compliance efforts, annual fees, and monitoring reports.

WDR Order No. 01-037 compliance

- o In a November 9, 2001 letter sent via regular mail, the EO reminded the Discharger of Order 01-037's requirement to submit the treatment system design by January 1, 2002.
- o On January 17, 2002, the EO notified the Discharger via email that the EO had not

- received the design, and that this violated WDRs Order No. 01-037.
- In a February 21, 2002 notice of violation sent via certified mail, the EO ordered the Discharger to submit the treatment system design. The letter notified the Discharger of the possible penalties for noncompliance. The Discharger did not claim the letter, which was returned to the Regional Board's offices. The letter was sent to the official address (the Discharger's residence address, which is also the facility location) that the Discharger had provided to the Board.
 - In April 5, 2002 letter sent via certified mail and a July 2, 2002 letter sent regular mail, pursuant to Water Code section 13267, the EO required the Discharger to submit a treatment system design by April 19, 2002, and July 24, 2002, respectively. The letters notified the Discharger of the possible penalties for noncompliance. The Discharger did not claim the April letter, which was returned to the Regional Board's offices. The letters were sent to the official address that the Discharger had provided to the Board.
 - In a September 18, 2002 letter sent via regular mail, the EO directed the Discharger to sample and analyze influent and effluent for total nitrogen twice per month. The letters was sent to the official address that the Discharger had provided to the Board
 - In a September 19, 2002 NOV sent via regular mail, the EO notified the Discharger of numerous violations of Order 01-037 and that, in accordance with Water Code section 13263(g), discharge of waste into waters of the State is a privilege and not a right. The letter was sent to the official address that the Discharger had provided to the Board
 - In a May 28, 2003 letter served by the Santa Cruz County Sheriff on June 19, 2003, the EO reiterated the requirement of Order 01-037 that the Discharger must install a treatment system by July 1, 2003. The letter imposed additional reporting requirements and notified the Discharger of the possible penalties for noncompliance.
 - In a May 28, 2003 email, staff reminded the Discharger of the requirement that a treatment system must be installed by July 1, 2003, in accordance with Order No. 01-037.
 - In an August 12, 2003 email, the Discharger informed Board staff of his intent to begin wastewater disposal underground.
 - In an August 13, 2003 letter sent certified mail, pursuant to Water Code section 13267, the EO required the Discharger to submit monthly status reports of his efforts to restore his treatment and disposal systems to compliance with Order No. 01-037. The letter notified the Discharger of the possible penalties for noncompliance. The Discharger did not claim the letter, which was returned to the Regional Board's offices. The letter was sent to the official address that the Discharger had provided to the Board
 - In an April 13, 2004 letter, the Discharger reported he no longer discharged effluent into the ponds but had discharged to a subsurface system since July 2003. However, the Discharger submitted no design for the new system for review and approval by the EO or the County Environmental Health Services Department.
 - A May 4, 2004 staff site inspection found the Discharger had installed new treatment and disposal system components but staff could not discern their function from a visual inspection.
 - In a July 22, 2004 meeting between Regional Board engineer Michael Higgins, the Discharger, and his assistant Maureen Gallagher, the Discharger stated his desire to achieve compliance with Order No. 01-037.
 - On September 15, 2004, the Discharger met with Fall Creek Engineering, who agreed to draft a proposal.
 - On October 15, 2004, Maureen Gallagher notified staff they had received the proposal and were requesting revisions.

- On November 19, 2004, staff called Ms. Gallagher for a status report. She responded that the Discharger needed more information.
- On December 2 and December 14, 2004, staff called the Discharger for status and left messages, and received no response.
- On January 13, 2005, staff left a message for the Discharger asking for a decision on the treatment plant/disposal system proposal, and received no response.
- On February 3, 2005, staff informed the Discharger via phone message that no more time was available to comply.
- On February 9 and 16, 2005 staff informed the Discharger via phone message that he must submit, by February 23, 2005, a signed contract specifying design completion within thirty days of signing the contract.
- Since November 19, 2004, the Discharger has not communicated with staff, regarding any issue discussed herein or any other issue.
- On September 29, 2005, the Superior Court of California granted an injunction requiring the Discharger to comply with all lawful orders of the Water Board; and within 30 days of the injunction's date, to submit a signed contract to design a treatment and disposal system capable of removing 50 percent of the nitrogen from the wastewater; within 90 days, to submit the treatment system plans to the Executive Officer; within 210 days of the Executive Officer's approval of the design, to install the system, ensure its reliable operation, and report the findings to the Executive Officer.
- On September 16, 2005, Fall Creek Engineering reported it was in the process of designing an enhanced wastewater treatment system to reduce the wastewater's nitrogen by half.
- On November 5, 2005, the Discharger submitted the design of a treatment system known to be capable of removing 50 percent of the nitrogen from the wastewater.
- On March 6, 2006, the Executive Officer commented on the design, stating that

before approval could be granted the Discharger shall alter the plans to show the existing system would be permanently removed from service within 30 days of activating the new system.

- The Discharger did not submit altered plans for approval nor contract with a construction professional to build the system.
- On November 9, 2006, the Santa Cruz County Health Services Agency, via certified mail, notified the Discharger that he was in violation of the California Health and Safety Code due to the presence of untreated sewage in a culvert discharging to Branciforte Creek. The County directed the Discharger to investigate and eliminate any sources of contamination, including broken pipelines and other sources.

Annual fee

- On February 26, 2004, the State Water Resources Control Board sent the Discharger, via certified mail, a Notice of Violation for failure to pay annual fees of \$1,766 for the year 2003-2004. The Discharger did not claim the letter, which was returned to the State Board's offices.
- The Discharger did not claim a February 2, 2005 notice of violation sent by the State Water Resources Control Board for non-payment of the \$981.00 annual fee for 2004-2005.
- The Discharger did not claim a January 26, 2006 notice of violation sent by the State Water Resources Control Board for non-payment of the \$981.00 annual fee for 2005-2006.
- All of the above letters were sent to the Discharger's address of record on file with the State and Central Coast Water Boards.
- The Discharger paid the \$981 annual fee for 2006-2007 but not the prior annual fees.

Monitoring reports

- Monitoring and Reporting Program (MRP) No. 01-037 (attached) requires the

Discharger to report semiannually by February 1st and August 1st the results of sample analyses and information regarding sewage spills. Since the Board adopted the Order in May 2001, the Discharger should have submitted 12 semiannual reports. However, the

Board's case files show the Discharger submitted five complete reports including influent and effluent analyses, one report with effluent data, and one report with no data. The Discharger submitted no monitoring reports after June 25, 2003.

Four of the five reports show the discharge removed more than 50 percent of the nitrogen from the wastewater. The Discharger submitted no reports of biweekly monitoring as directed by the EO in the September 18, 2002 letter.

Board staff inspected the treatment system identified by the Discharger as the system that has removed and continues to remove half the nitrogen from the septic tank effluent. The Discharger submitted the four monitoring reports noted above to demonstrate the system's effectiveness. As described above, staff found the treatment system does not apparently provide the conditions necessary to nitrify or denitrify the wastewater. In staff's professional judgment, the system cannot likely remove half the wastewater's nitrogen. Therefore, staff concluded the monitoring results do not likely represent the system's performance. Accordingly, staff first requested additional monitoring data, followed with a request for wastewater samples split between the Discharger and Board staff. However, the Discharger has not responded to staff's request for biweekly samples for nitrogen in the wastestream, has not submitted monitoring reports since 2003, and has not complied with the District Attorney's request he set up a monitoring program whereby Board staff would sample the wastestream. Moreover, the Discharger has never submitted the plant's design to the Board or County Health, as required. Therefore, without enough valid data and

the plant design, it has been impossible for staff to determine if the system removes half the nitrogen. The submittal of merely four compliant results of more than the 40 required does not demonstrate, in staff's judgment, that the system functions as required.

- By letter dated April 9, 2004, the Executive Officer notified the Discharger of his failure to submit the semiannual monitoring report required by Monitoring and Reporting Program No. 01-037. The letter informed the Discharger of the possible penalties for failure to comply.
- By letter dated August 22, 2005, the Board notified the Discharge of his failure to submit the monitoring report required on August 1, 2005.

Compliance summary. The Discharger has not complied with WDRs Order No. 01-037's Effluent Limitation No. 3 or System Operation Specification No. 10.

The following table summarizes the Discharger's other compliance requirements and compliance history.

Compliance item	Number of requirements	Number of compliances
NOV	3	0
13267 letter	3	0
Reminder letters	3	0
Requests for information	3	0
Annual fee	4	1
Monitoring reports	12	5
Biweekly nitrogen monitoring reports	30	0

DISCUSSION

Rescission of WDR Order No. 01-037.

California Water Code §13263(g) states:

No discharge of waste into the waters of the state, whether or not the discharge is made pursuant to waste discharge requirements, shall create a vested right to continue the discharge. All discharges of waste into waters of the state are privileges, not rights.

The State Water Resources Control Board's Water Quality Enforcement Policy recommends rescission of WDRs for negligently or intentionally withholding required information (Enforcement Policy section V.A(d)), and states the rescission may be appropriate in cases including nonpayment of fees (Enforcement Policy section IV.C.8).

Except for submitting a design of a treatment facility capable of removing half the effluent's nitrogen, the preceding compliance history demonstrates the Discharger has not complied with any requirement specified in Orders adopted by the Water Board or in correspondence from the EO. Nor has the Discharger installed the treatment facility described in the submitted designs, to date. The Discharger did not respond to staff comments on the design. The Discharger has made it impossible for the Board to determine whether the Discharger is complying with requirements the Board imposed to ensure the protection of beneficial uses of surface and ground water. In staff's professional judgment, the current facility is incapable of achieving 50 percent nitrogen reduction. The Discharger failed to provide monitoring data to Water Board staff either as required by his WDRs and other requirements, or after receiving notice from the Santa Cruz County District Attorney that failure to comply with WDRs would result in legal action initiated by the District Attorney. .. Rescission of WDRs Order No.01-037 would revoke the Discharger's privilege to discharge waste.

WDRs Order No. R3-2007-0050. Order R3-2007-0050 prohibits the discharge of waste at the subject site and rescinds WDRs Order No. 01-037. The purpose of the WDRs is to prohibit the Discharger from discharging waste. California Water Code Section 13264 provides:

"No person shall initiate any new discharge of waste or make any material changes in any discharge, or initiate a discharge to, make any material changes in a discharge to, or construct, an injection well, prior to the filing of the report required by Section 13260 and no person shall take any of these actions after filing the report but before whichever of the following occurs first:

- (1) The issuance of waste discharge requirements pursuant to Section 13263..."

Section 13264 allows discharges to commence without WDRs after expiration of a stated period of time, but only if the discharge does not threaten to cause pollution or nuisance, which this discharge does. Although Section 13264 does not explicitly prohibit continued discharges after rescission of WDRs, where there is not a new or modified discharge, such prohibition is implicit in Sections 13260-13265.

On the other hand, Water Code Section 13243 is explicit that a regional water board may prohibit discharges of waste in WDRs: "A regional board, in ... waste discharge requirements, may specify certain conditions or areas where the discharge of waste, or certain types of waste, will not be permitted."

To remove any ambiguity, staff recommends the board adopt new WDRs that explicitly prohibit the continued discharge of waste from the facility. The prohibition does not apply to the separate system at the gate house that the Discharger occupies.

CDO No. R3-2007-0051. This Order prohibits the violation of Order No. R3-2007-0050. Adopting the CDO provides a basis for the Attorney General, or the District Attorney, to obtain an injunction if the Discharger continues to violate Board requirements. In addition, staff believe the issuance of the CDO will discourage County staff from issuing the facility any permits to operate.

CONCLUSION

Staff concludes that the Discharger should not be granted the privilege to discharge waste into State waters. Staff further concludes that the Discharger does not intend to comply with Order No. 01-037's Effluent Limitation No. 3 or System Operation Specification No. 10, or with MRP No. 01-037. Staff so concluded because the Discharger has not:

1. Complied in any manner with the Superior Court's injunction or the Board's or District Attorney's request for valid system monitoring data;
2. Submitted more than five of the 12 reports required in MRP No 01-037 and none at all since June 2003;
3. Complied with numerous directives and requirements from the EO, as shown in the compliance history, above (except to provide the preliminary design of a treatment system likely able to remove half the nitrogen from the wastewater);
4. Accepted delivery of numerous letters from the Board;

5. Paid the required annual fees for three years (until this year, which he paid);
6. Communicated with Board staff since November 2004; and
7. Demonstrated that his existing treatment system removes half the total nitrogen from the wastewater.

The Discharger has the obligation to demonstrate that his discharge complies with all applicable requirements; staff is not required to prove the system cannot meet the requirements. As stated above, in staff's professional judgment, the existing system likely cannot remove half the nitrogen and the existing monitoring data do not demonstrate that it can. However, staff would recommend rescission based on the other instances of noncompliance (failure to pay fees and submit required reports) noted above.

RECOMMENDATION

Adopt WDRs Order No. R3-2007-0050, which rescinds Order No. 01-137 and prohibits further discharge, and adopt CDO No. R3-2007-0051.

ATTACHMENTS

1. WDRs Order No. 01-037 and Monitoring and Reporting Program No. 01-037.
2. WDRs Order No. R3-2007-0050
3. CDO Order No. R3-2007-0051.

STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION
81 Higuera Street, Suite 200
San Luis Obispo, California 93401-5427

WASTE DISCHARGE REQUIREMENTS ORDER NO. 01-037

WDID No. 3 4404-07004

1006001

FOR

CASA DE MONTGOMERY INC.,
CASA DE MONTGOMERY WASTEWATER TREATMENT FACILITY,
SANTA CRUZ COUNTY

The California Regional Water Quality Control Board, Central Coast Region (hereinafter called the Regional Board) finds that:

SITE OWNER AND LOCATION

1. On July 25, 2000, Maureen Gallagher filed a Report of Waste Discharge. The report was filed on behalf of Casa de Montgomery Wastewater Treatment Facility for authorization to continue discharging treated domestic wastewater within the San Lorenzo River sub-basin.
2. Casa de Montgomery Inc. (hereafter Discharger), 11570 Highway 9, Santa Cruz, owns and operates a wastewater treatment facility. The facility includes collection, septic tanks, and evaporation/percolation ponds. It is located in Santa Cruz County at 4573 Branciforte Drive, Santa Cruz, approximately 5 miles northeast of the City of Santa Cruz as shown on Attachment "A" of this Order.

PURPOSE OF ORDER

3. The primary objectives of this Order are to regulate the discharge of treated domestic wastewater described in the Discharger's Report of Waste Discharge and uphold State water quality standards.

SITE/FACILITY DESCRIPTION

Discharge Type

4. The facility is designed to treat and dispose domestic wastewater from the Casa de Montgomery.
5. Casa de Montgomery is a rooming house that houses approximately 20 individuals.

Design and Current Capacity

6. Wastewater treatment is two septic tanks, 3,000 gallon each, in series.
7. The system treatment capacity is estimated to be 3,500 gallons per day (gpd).
8. Wastewater is discharged to a series of seven evaporation/percolation ponds.
9. The system treats and disposes up to 2,000 gpd of domestic wastewater.

Geology

10. The evaporation/percolation ponds are located on sloping (20-40% slope) topography consisting of fine sandy loam soils.

new or revised waste discharge requirements. The WWMP's goal is for at least 50 % reduction in nitrogen from onsite disposal systems. ^{BP}

21. This order requires 50 % reduction of nitrogen in effluent, consistent with Resolution No. 95-04. ^{BP}
22. The surface water quality objectives specified in the Basin Plan for the San Lorenzo River are: ^{BP}

Analyte	Value	Units
Total Dissolved Solids	250	mg/l
Chloride	30	mg/l
Sulfate	60	mg/l
Boron	0.2	mg/l
Sodium	25	mg/l

23. The range of median ground water quality objectives in the San Lorenzo Sub-Basin, as specified in the Basin Plan, are reported as follows: ^{BP}

Analyte	Range	Units
Total Dissolved Solids	100-250	mg/l
Sodium	10-20	mg/l
Chloride	20-30	mg/l
Nitrate (as N)	1-5	mg/l
Sulfate	10-50	mg/l

CEQA

24. These waste discharge requirements are for an existing facility and are exempt from provisions of the California Environmental Quality Act (Public Resources Code, Section 21000, et seq.) in accordance with Section 15301, Chapter 3, Title 14, of the California Code of Regulations.

EXISTING ORDERS AND GENERAL FINDINGS

25. The discharge has been regulated by Waste Discharge Requirements Order No. 86-285, adopted by the Regional Board on October 10, 1986. The Regional Board has regulated

the discharge from Casa de Montgomery since April 11, 1969.

26. Discharge of waste is a privilege, not a right, and authorization to discharge is conditional upon the discharge complying with provisions of Division 7 of the California Water Code and any more stringent effluent limitations necessary to implement water quality control plans, to protect beneficial uses, and to prevent nuisance. Compliance with this Order should assure this and mitigate any potential adverse changes in water quality due to the discharge.
27. On **January 28, 2001**, the Regional Board notified the Discharger and interested agencies and persons of its intent to adopt waste discharge requirements for the discharge, and has provided them with a copy of the proposed Order and an opportunity to submit written views and comments.
28. In a public hearing on May 18, 2001, the Regional Board heard and considered all comments pertaining to the discharge and found this Order consistent with the above findings.

IT IS HEREBY ORDERED, pursuant to authority in Section 13263 of the California Water Code, that Casa de Montgomery, its agents, successors, and assigns, may discharge wastewater at Casa de Montgomery Wastewater Treatment Facility, providing compliance is maintained with the following:

[Note: Other prohibitions and conditions, definitions, and the method of determining compliance are contained in the attached "Standard Provisions and Reporting Requirements for Waste Discharge Requirements" dated January, 1984. Applicable paragraphs are referenced in this Order.]

12. Solids cleaned from tanks shall be disposed of at a septage receiving facility approved by the Regional Board Executive Officer.

Storm water Control

13. Extraneous surface drainage shall be diverted away from the treatment system and evaporation/percolation ponds.

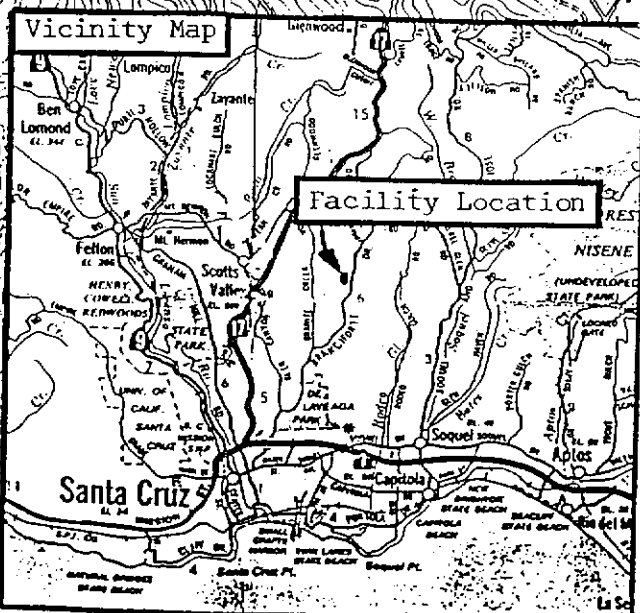
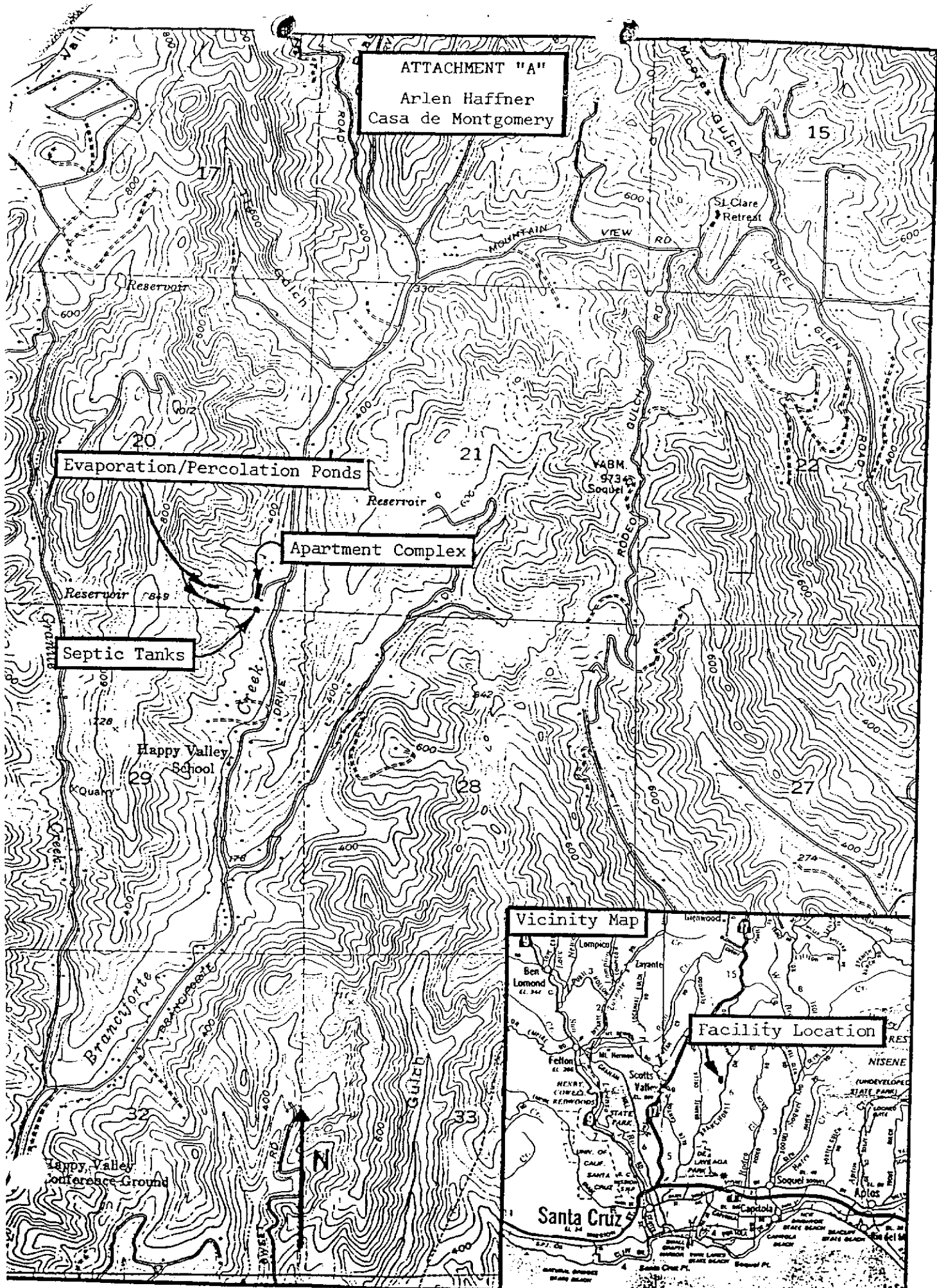
PROVISIONS

1. Order No. 86-285, "Waste Discharge Requirements for Casa de Montgomery Inc., Santa Cruz County" adopted by the Regional Board on October 10, 1986, is hereby rescinded.
2. Discharger shall comply with "Monitoring and Reporting Program No. 01-037", and any amendments thereto, as specified by the Regional Board Executive Officer.
3. Freeboard shall exceed two feet in wastewater disposal pond at all times.
4. The Discharger shall comply with all items of the attached "Standard Provisions and Reporting Requirements for Waste Discharge Requirements" dated January 1984; except Item Nos. A.8, A.17, and C.16.
5. Pursuant to Title 23, Division 3, Chapter 9, of the California Code of Regulations, the Discharger must submit a written report to the Regional Board Executive Officer not later than January 1, 2010, addressing:
 - a. Whether there will be changes in the continuity, character, location, or volume of the discharge; and
 - b. Whether, in their opinion, there is any portion of the Order that is incorrect, obsolete, or otherwise in need of revision.

ATTACHMENTS

1. Attachment A, Site and Vicinity Map
2. Monitoring and Reporting Program No. 01-037
3. Standard Provisions and Reporting Requirements for Waste Discharge Requirements, January 1984

ATTACHMENT "A"
Arlen Haffner
Casa de Montgomery



EFFLUENT MONITORING

Representative effluent samples shall be collected prior to evaporation/percolation ponds and analyzed for the following:

Parameter	Units	Type of Sample	Minimum Measuring Frequency
Flow to evaporation/percolation ponds	Gallons per day	Metered	Monthly
BOD, 5-day	mg/l	Grab	"
pH	pH units	"	"
Organic Nitrogen (N)	mg/l	"	* Twice per month ²
Nitrate (N)	"	"	"
Nitrite (N)	"	"	"
Ammonia (N)	"	"	"
Total suspended solids	"	"	Quarterly
Total dissolved solids	"	"	"
Sodium	"	"	"
Chloride	"	"	"

(N) – All nitrogen data shall be reported as nitrogen.

*Staff requires monitoring twice per month for the Nitrogen series (Organic Nitrogen, Nitrate, Nitrite, and Ammonia) for a minimum of 15 months. The samples shall be collected at least 10 days apart. After 15 months, Discharger shall submit a report analyzing the nitrogen removal efficiency of the wastewater treatment plant. Regional Board staff will evaluate the report to determine the need and frequency for continued nitrogen monitoring.

² Effluent nitrogen monitoring shall be conducted quarterly until the installation of enhanced wastewater treatment system. The additional effluent nitrogen monitoring shall commence once the enhanced wastewater treatment system is installed or July 1, 2003, whichever comes first.

May 18, 2001

All data shall be submitted to the Regional Board in both hard copy and electronic format. The electronic data submission shall conform to criteria approved by the Central Coast Regional Water Quality Control Board Executive Officer.

ORDERED BY: 

Executive Officer

May 18, 2001

Date

SAWB\Northern Watershed\TLS\Finalized\WDR\Casa de Montgomery Inc., Casa de Montgomery\01-037 MRP.doc

Task: I21-01

File: Discharger file; Casa de Montgomery, Casa de Montgomery WWF

STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION
895 Aerovista Place, Suite 101
San Luis Obispo, California 93401-7906

WASTE DISCHARGE REQUIREMENTS ORDER NO. R3-2007-0050

For

ARLEN HAFFNER
CASA DE MONTGOMERY
WASTEWATER TREATMENT FACILITY
SANTA CRUZ COUNTY

The California Regional Water Quality Control Board, Central Coast Region (Board), finds that:

1. **Discharger.** Arlen Haffner (Discharger) collects, treats and disposes of domestic wastewater to land from a boarding house.
2. **Purpose and basis of Order.** This Order prohibits discharge of wastewater from the existing treatment and disposal facilities. This Order also rescinds Order No. 01-037, which includes discharge specifications and limitations for the discharge. The Board finds the rescission is necessary because the Discharger, although the Executive Officer notified or attempted to notify the Discharger numerous times, has not complied with Order 01-037. Further, the Discharger did not submit annual fees or monitoring reports for the past three years (except that he paid fees for the 2006-2007 fiscal year) and repeatedly refused to accept official mail the Board sent to his address of record.
3. **Facility owner and location.** The Discharger owns and operates a domestic wastewater collection, treatment, and disposal system at a boarding house located at 4573 Branciforte Road, Santa Cruz County (the Facility). The Discharger lives onsite in the former gatehouse, which is served by a separate septic tank and leachfield system. This separate system is not considered part of the Facility.
4. **Wastewater characteristics.** Domestic wastewater includes human waste, sanitary wastewater and gray water, and includes elevated concentrations of nitrogen and phosphorus, solids, oil and grease, oxygen demanding compounds, and pathogens.
5. **Design and capacity.** The system consists of sewers, two 3,000-gallon septic tanks, a pump station, and evaporation/percolation ponds. The estimated treatment system capacity was 3,500 gallons per day until Order No. 01-037. Specification No. 3 required the Discharger to remove half the nitrogen from the wastewater. Since the Board adopted the Order on May 18, 2001, the Discharger has not demonstrated that the existing treatment system removes half the nitrogen nor has he installed a system capable of doing so.
6. **Basin Plan.** The Board adopted the *Water Quality Control Plan, Central Coastal Basin* (Basin Plan) on September 8, 1994. The Basin Plan incorporates statewide plans and policies by reference and contains a strategy for protecting beneficial uses of Branciforte Creek and other surface waters.
7. **Surface waters.** An unnamed intermittent stream flows southeasterly approximately 100 feet southwest of the percolation ponds before entering Branciforte Creek. Branciforte Creek flows for approximately

six miles before entering Carbonera Creek and ultimately the San Lorenzo River.

8. Surface Waters Beneficial Uses.

Existing and anticipated beneficial uses of Branciforte Creek include:

- a. Municipal and domestic supply;
- b. Water contact recreation;
- c. Ground water recharge;
- d. Industrial service supply;
- e. Water-contact recreation;
- f. Non-contact water recreation;
- g. Wildlife habitat;
- h. Cold freshwater habitat;
- i. Fish migration;
- j. Fish spawning;
- k. Preservation of biological habitats of special significance;
- l. Protection of rare, endangered, or threatened species;
- m. Freshwater replenishment; and
- n. Commercial and sport fishing.

9. Groundwater beneficial uses. Existing and anticipated beneficial uses of groundwater in the vicinity of the discharge include:

- a. Domestic supply,
- b. Agricultural supply,
- c. Industrial process supply, and
- d. Industrial service supply.

10. Wastewater management plan. The San Lorenzo Wastewater Management Plan (WWMP), adopted by Santa Cruz County Board of Supervisors, was approved by the Regional Board on April 5, 1995, as Resolution No. 95-04. The WWMP includes findings and recommendations resulting from investigation of elevated nitrate levels in surface water and groundwater in the San Lorenzo River watershed. The WWMP recommends the Regional Board require nitrogen control measures in the issuance of new or revised waste discharge requirements. The WWMP's goal is for onsite disposal systems to reduce nitrogen by at least 50 percent.

11. Order No. 01-037 requires 50 percent reduction of nitrogen in effluent, consistent with Resolution No. 95-04.

12. Authority to Prohibit Discharge.

California Water Code section 13243 provides that a Regional Board, in waste discharge requirements, may specify conditions or areas where the discharge of waste, or certain types of waste, will not be permitted. Water Code section 13263(a) states that the Board shall issue requirements for existing discharges. Water Code section 13263(d) allows the Board to issue waste discharge requirements even though no report of waste discharge has been filed. The requirements specified in this Order are consistent with both the Basin Plan and Water Code Section 13243 and 13263 and are necessary to protect beneficial uses of Branciforte Creek and the San Lorenzo River, and to comply with State Water Board Resolution No. 68-16 (Anti-Degradation Policy).

13. Water Code Section 13241. The Board has considered the factors set forth in Water Code section 13241. The beneficial uses of Branciforte Creek and nearby groundwater have been approved pursuant to state law. Surface water designations have been approved by USEPA. The requirements of the Order take into consideration past, present, and probable future beneficial uses of the receiving surface and ground waters, and the environmental characteristics, including water quality, of the Big Basin Hydrologic Unit.

14. Obtaining coordinated control of all factors which affect water quality in the area would not allow the Discharger to continue discharging in violation of all Board orders and requirements. The discharge cannot be recycled and is irrelevant to the need to develop and use recycled water. The need for housing in the region and economic considerations, including the loss of rental income to the Discharger or the cost of complying with the Board's

orders, do not outweigh the need to protect beneficial uses and to prevent unregulated discharges.

15. **California Environmental Quality Act (CEQA).** This Order disapproves continued operation of the Facility and is therefore not an approval of a project subject to the California Environmental Quality Act (Public Resources Code section 21080(b)(5)). Even if this Order is a project, it rescinds the Discharger's prior waste discharge requirements and prohibits further discharge in order to protect the environment, and as such, is exempt from the provisions of the California Environmental Quality Act, in accordance with Title 14, California Code of Regulations, Chapter 3, Sections 15307, 15308 and 1321.

16. **Existing Order.** The discharge has been regulated by Waste Discharge Requirements Order No. 01-037, adopted by the Regional Board on May 18, 2001. The Regional Board has regulated the discharge from Casa de Montgomery since April 11, 1969.

17. Discharge of waste is a privilege, not a right, and authorization to discharge is conditional upon the discharge complying with provisions of Division 7 of the California Water Code and any more stringent effluent limitations necessary to implement water quality control plans, to protect beneficial uses, and to prevent nuisance.

18. On **June 4, 2007**, the Regional Board notified the Discharger and interested agencies and persons of its intent to adopt waste discharge requirements for the discharge, and has provided them with a copy of the proposed Order and an opportunity to submit written views and comments.

19. **Public Hearing.** In a public hearing on July 6, 2007, the Board heard and considered all comments pertaining to the discharge and found this Order consistent

with the above findings.

19. **Right to Petition.** Any person affected by this action of the Board may petition the State Board to review the action in accordance with Section 13320 of the California Water Code and Title 23, California Code of Regulations, Section 2050. The State Board must receive the petition within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request.

IT IS HEREBY ORDERED pursuant to authority in sections 13243 and 13263 of the California Water Code, that the Permittee, its agents, successors, and assigns, to meet the provisions contained in Division 7 of the California Water Code and regulations adopted thereunder, shall comply with the following:

A. PROHIBITIONS

The following is prohibited:

1. The discharge of domestic wastewater to or from the Facility, including the boarding house, sewer, treatment system, or disposal system (including all components of the onsite septic system).

B. PROVISIONS

1. Order No. 01-037, *Waste Discharge Requirements for Casa de Montgomery Inc., Santa Cruz County*, adopted by the Regional Board on May 18, 2001, is hereby rescinded.

As provided by CWC Section 13350(a), any person may be civilly liable if that person in violation of a waiver condition or waste discharge requirements, discharges waste, or causes waste to be deposited where it is discharged, into the waters of the State.

STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION
895 Aerovista Place, Suite 101
San Luis Obispo, California 93401-7906

CEASE AND DESIST ORDER NO. R3-2007-0051

For

ARLEN HAFFNER
CASA DE MONTGOMERY
WASTEWATER TREATMENT FACILITY
SANTA CRUZ COUNTY

The California Regional Water Quality Control Board, Central Coast Region (Board), finds that:

1. **Discharger.** Arlen Haffner (Discharger) collects, treats and disposes of domestic wastewater to land from a boarding house.
2. **Purpose and basis of Order.** This Order prohibits discharge of wastewater from the existing treatment and disposal facilities. The Board rescinded Order No. 01-037 because the Discharger, although the Executive Officer notified him of noncompliance numerous times, has not complied with the Order. In particular, the Discharger did not submit annual fees or monitoring reports for several years, although he paid the annual fee for FY2006-2007.
3. **Facility owner and location.** The Discharger owns and operates the domestic wastewater collection, treatment, and disposal system at 4573 Branciforte Road, Santa Cruz County.
4. **Wastewater characteristics.** The domestic wastewater discharged from the boarding house comprises sanitary wastewater and gray water, and includes elevated concentrations of nitrogen and phosphorus, solids, oil and grease, oxygen-demanding compounds, pathogens, and other pollutants.
5. **Design and capacity.** The system comprises sewers, two 3,000-gallon septic tanks, a pump station, and evaporation/percolation ponds. The estimated treatment system capacity was 3,500 gallons per day until Order No. 01-037. Specification No. 3 required the Discharger to remove half the nitrogen from the wastewater. However, since the Board adopted Order 01-037 on May 18, 2001, the Discharger has not demonstrated that the existing treatment system removes half the nitrogen. Therefore, the plant has not demonstrated that it has the capacity to remove nitrogen in compliance with the requirements of Order 01-037.
7. **Basin Plan.** The Board adopted the *Water Quality Control Plan, Central Coastal Basin* (Basin Plan) on September 8, 1994. The Basin Plan incorporates statewide plans and policies by reference and contains a strategy for protecting beneficial uses of Branciforte Creek and other surface waters.
8. **Surface waters.** An unnamed intermittent stream flows southeasterly approximately 100 feet southwest of the percolation ponds before entering Branciforte Creek. Branciforte Creek flows for approximately six miles before entering Carbonera Creek and ultimately the San Lorenzo River.
9. **Surface Waters Beneficial Uses.** Existing and anticipated beneficial uses of Branciforte Creek include:
 - a. Municipal and domestic supply;
 - b. Water contact recreation;
 - c. Ground water recharge;

- d. Industrial service supply;
 - e. Water-contact recreation;
 - f. Non-contact water recreation;
 - g. Wildlife habitat;
 - h. Cold freshwater habitat;
 - i. Fish migration;
 - j. Fish spawning;
 - k. Preservation of biological habitats of special significance;
 - l. Protection of rare, endangered, or threatened species;
 - m. Freshwater replenishment; and
 - n. Commercial and sport fishing.
10. **Groundwater beneficial uses.** Existing and anticipated beneficial uses of groundwater in the vicinity of the discharge include:
- a. Domestic supply,
 - b. Agricultural supply,
 - c. Industrial process supply, and
 - d. Industrial service supply.
11. **Wastewater management plan.** The San Lorenzo Wastewater Management Plan (WWMP), adopted by Santa Cruz County Board of Supervisors, was approved by the Regional Board on April 5, 1995 as Resolution No. 95-04. The WWMP includes findings and recommendations resulting from investigation of elevated nitrate levels in surface water and groundwater in the San Lorenzo River watershed. The WWMP recommends the Regional Board require nitrogen control measures in the issuance of new or revised waste discharge requirements. The WWMP's goal is for at least 50 percent reduction in nitrogen from onsite disposal systems.
12. Order No. 01-037 required 50 percent reduction of nitrogen in effluent, consistent with Resolution No. 95-04. Compliance was due by January 1, 2004. The Discharger has not complied with this requirement.
13. **Authority for Order.** WDRs Order No. R3-2007-0050 prohibits discharge from the facility based on an extensive history

of noncompliance. Water Code Section 13301 provides

"When a regional board finds that a discharge of waste is taking place, or threatening to take place, in violation of requirements ... prescribed by the regional board ..., the board may issue an order to cease and desist and direct that those persons not complying with the requirements or discharge prohibitions (a) comply forthwith, (b) comply in accordance with a time schedule set by the board, or (c) in the event of a threatened violation, take appropriate remedial or preventive action."

Based on the Discharger's extensive history of non-compliance, the Board finds that a discharge is threatening to take place in violation of WDRs Order No. R3-2007-0050.

14. **California Environmental Quality Act (CEQA).** This Order is an enforcement action to protect the environment, and as such, is exempt from the provisions of the California Environmental Quality Act, in accordance with Title 14, California Code of Regulations, Chapter 3, Sections 15307, 15308 and 15321.
15. **Existing Order.** The discharge is regulated by **Waste Discharge Requirements Order No. R3-2007-0050.**
16. Discharge of waste is a privilege, not a right, and authorization to discharge is conditional upon the discharge complying with provisions of Division 7 of the California Water Code and any more stringent effluent limitations necessary to implement water quality control plans, to protect beneficial uses, and to prevent nuisance. Compliance with this Order should assure this and mitigate any potential adverse changes in water quality due to the discharge.
17. On **June 4, 2007**, the Regional Board notified the Discharger and interested agencies and persons of its intent to adopt

this Order, and has provided them with a copy of the proposed Order and an opportunity to submit written evidence and comments.

18. **Public Meeting.** In a public meeting on July 6, 2007, the Board heard and considered all comments pertaining to the discharge and found this Order consistent with the above findings.
19. **Right to Petition.** Any person affected by this action of the Board may petition the State Board to review the action in accordance with Section 13320 of the California Water Code and Title 23, California Code of Regulations, Section 2050. The State Board must receive the petition within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request.

IT IS HEREBY ORDERED pursuant to authority in sections 13301 of the California Water Code:

1. The Discharger, his agents, successors, and assigns, shall cease and desist from discharging waste in violation of WDR Order R3-2007-0050.
2. If, in the opinion of the Executive Officer, the Discharger fails to comply with any provision of this Order, then the Executive Officer may apply to the Attorney General for judicial enforcement without a hearing.

As provided by CWC Section 13350(a), any person may be civilly liable if that person, in violation of a waiver condition or waste discharge requirements, discharges waste, or causes waste to be deposited where it is discharged, into the waters of the State.